

UNITED STATES DISTRICT COURT

for the

District of Oregon

United States of America)

v.)

JOHN DOE, a/k/a CODY PORTER)

Case No. 3:20-mj-00151)

)

)

)

)

Defendant(s)

**CRIMINAL COMPLAINT
BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of July 5, 2020, in the county of Multnomah in the
District of Oregon, the defendant(s) violated:

*Code Section**Offense Description*

18 USC 111(a)(1)

Assaulting a federal officer

This criminal complaint is based on these facts:

See the attached affidavit of Senior Special Agent David Miller, Federal Protective Service.

☒ Continued on the attached sheet.

(By telephone)

Complainant's signature

David Miller, Senior Special Agent, FPS

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by
 telephone at 3:03pm xxxxxx

Date: July 6, 2020City and state: Portland, Oregon

Jolie A. Russo
Judge's signature

Honorable Jolie Russo, U.S. Magistrate Judge

Printed name and title

I, David Miller, being duly sworn, do hereby depose and state as follows:

1. I am employed as a Senior Special Agent (SSA) with the Federal Protective Service (FPS) and have been employed by FPS since October 2009. I have participated in several investigations relating to the protection of federal facilities and personnel. I am currently assigned to Region 10 in Portland, Oregon as a general crimes agent. I am also a Task Force Officer for the United States Marshals Service (USMS) Pacific Northwest Violent Offender Task Force, a part time investigator for the FPS Office of Internal Investigations (OII), and a liaison for the Federal Bureau of Investigation (FBI) Joint Terrorism Task Force (JTTF). From April 2006 to October 2009, I was a Special Agent with the Naval Criminal Investigative Service (NCIS) serving as a member of the Major Crimes Response Team (MCRT) and a Foreign Counterintelligence agent. Before that, I was a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) in Yakima, Washington, a Federal Air Marshal, an ATF Inspector, and a police officer in several cities. I started my law enforcement career in 1991. I graduated from the FPS Advanced Individual Training Program in November 2009. I graduated from the NCIS Advanced Individual Academy in 2006. I graduated from the ATF National Academy in June of 2003. I graduated from the Federal Law Enforcement Training Center Criminal Investigator Course in March of 2003. I graduated from the Federal Law Enforcement Training Center Civil Aviation Security Specialist Course in February of 2002 and

the ATF Inspector Course in January of 2001. I graduated from the U.S. Army Military Intelligence Officer Basic Course in August of 1996 and the U.S. Army Military Intelligence Enlisted Course in February of 1988. I received a bachelor's degree in Social Sciences at Emporia State University in 1992 and an Associate Degree in Criminal Justice at Barton County Community College in 1995. As a result of my training and experience as an FPS Special Agent, I am familiar with federal criminal laws.

2. I submit this affidavit in support of a criminal complaint and arrest warrant for "John Doe" (DOE) (a/k/a Cody Porter). As set forth below, there is probable cause to believe, and I do believe, that DOE committed an assault upon a federal officer, in violation of 18 U.S. Code § 111.

3. The facts set forth in this affidavit are based on the following: my own personal knowledge, knowledge obtained from other individuals during my participation in this investigation, including other law enforcement officers, interviews of witnesses, my review of records related to this investigation, communication with others who have knowledge of the events and circumstances described herein, and information gained through my training and experience. Because this affidavit is submitted for the limited purpose of establishing probable cause in support of the application for an arrest warrant, it does not set forth each fact that I or others have learned during this investigation.

Applicable Law

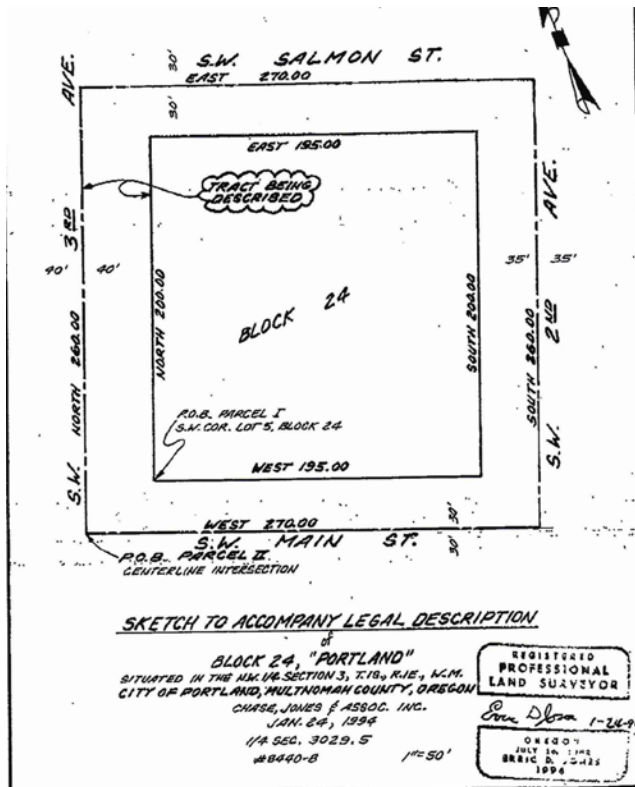
4. 18 U.S.C. § 111 makes it an offense to forcibly assault, resist, oppose, impede, intimidate, or interfere with any person designated in 18 U.S.C. § 1114 while engaged in or on account of the performance of official duties. Under § 111(a), simple assault is a misdemeanor;

an assault involving physical contact with the victim or an intent to commit another felony is a felony. Persons designated in § 1114 include any officer or employee of the United States or of any agency in any branch of the United States government while such officer or employee is engaged in or on account of the performance of official duties, and any person assisting such an officer or employee in the performance of official duties.

Statement of Probable Cause

5. Since on or about May 26, 2020, protesters have gathered in Portland public areas, including Lownsdale Square, Chapman Square, and Terry Schrunk Plaza. The Justice Center, which contains Portland Police Bureau's (PPB) Central Precinct and the Multnomah County Detention Center (MCDC), and the Mark O. Hatfield United States Courthouse, are directly across the street from those parks. The United States of America owns the entire city block (Block #24) occupied by the Hatfield Courthouse, as depicted below.¹

¹ As part of my duties, I am familiar with the property boundaries for federal facilities in the Portland area. The federal government owns the entire city block occupied by the Mark O. Federal Courthouse. Easements have been granted for the sidewalks surrounding the facility. The property boundary extends past the sidewalks and into the streets surrounding the courthouse.



6. Daily protests have regularly been followed by nightly criminal activity in the form of vandalism, destruction of property, looting, arson, and assault. Most violent of these impacting federal property occurred on May 28, 2020, when the Portland Field Office for the Immigration and Customs Enforcement (ICE) was targeted by a Molotov Cocktail. The Hatfield Courthouse has experienced significant damage to the façade and building fixtures during the six weeks following this incident. Additionally, mounted building security cameras and access control devices have been vandalized or stolen. The most recent repair estimate for the damage at the Mark O. Hatfield Courthouse is in excess of \$50,000, and there has been additional extensive damage since then. Other federal properties in the area routinely being vandalized include the historic Pioneer Federal Courthouse, the Gus Solomon Courthouse, and the Edith Green Wendall Wyatt Federal Office Building. FPS law enforcement officers, Deputy U.S.

Marshals, and other federal law enforcement officers working to protect the Hatfield Courthouse have been subjected to threats, aerial fireworks (including mortars), high intensity lasers targeting officers' eyes, thrown rocks, bottles, and balloons filled with paint, and vulgar language from demonstrators while performing their duties.

7. On July 5, 2020, DOE assaulted federal law enforcement officers by directing a laser, a device that generates an intense beam of coherent monochromatic light (or other electromagnetic radiation) by stimulated emission of photons from excited atoms or molecules, towards officers during the performance of their duties at the Hatfield Courthouse.

8. On July 5, 2020, SA David Miller and SA Brian Desens interviewed FPS Inspector Bradley O'Neal at the Hatfield USCH. Inspector O'Neal stated that at approximately 2:30am, FPS Area Commander Lopez advised, via radio, that a white male wearing a black t-shirt, red bandana, and carrying a satchel was using a laser against law enforcement personnel and was located at SW Third Avenue between Salmon and Taylor Streets. Inspector O'Neal and his team walked towards DOE. DOE saw them coming, and began walking northbound away from the team. DOE did not comply with verbal orders to stop and was taken to the ground in the area of SW Third and Taylor. A female, later identified as Gretchen Blank attempted to interfere in DOE's arrest and was also taken into custody. DOE and Blank were handcuffed and brought back to Hatfield Courthouse for processing. Inspector O'Neal described DOE as a white male with reddish blonde hair, in his late 20s, with a couple of days' growth of facial hair. DOE had the laser, pictured below, on his person at the time of his arrest.



Laser found in DOE's possession.

9. DOE refused to identify himself following his arrest. After he was lodged at the Multnomah County Detention Center, he gave his name as Cody Porter. I do not know whether the Multnomah County Sheriff's Office has been able to verify DOE's/Porter's identity.

10. On July 5, 2020, FPS SA Desens interviewed United States Border Patrol (USBP) Tactical Agent Michael Morino. Agent Morino said he was with his team outside of the Hatfield Courthouse when a green laser hit his chest, moved up to and struck his face, then moved to other officers on his team. Agent Morino spotted the source of the laser, who was DOE. DOE was at the northwest corner of SW Third Avenue and Salmon street, by the parking garage entrance. The garage entrance light and street lighting illuminated DOE. Agent Morino pointed out DOE and a fellow team member put out the information on the radio. FPS Area Commander Luis Lopez ordered a team to apprehend the subject. DOE tucked back into the parking garage

and appeared to speak to a female. The arrest team walked towards DOE and DOE began walking away from the approaching arrest team and was subsequently apprehended at the corner of Third Avenue and Taylor Street.

11. On July 5, 2020, SAs Miller and Desens contacted the United States Marshals Service (USMS) detention center at the Hatfield Courthouse and learned that DOE wished to speak to a lawyer and would not speak to anyone. No interview was attempted.

12. On July 5, 2020, DOE'S belongings were searched incident to his arrest and the following were found: a green canvas satchel containing a black hat, protective mask, red bandana, a nylon belt, and a plastic groin protector. The satchel also contained fourteen (14) commercial grade fireworks located in a small inside pocket.



Satchel and contents



Satchel & contents including found fireworks



Closeup of fireworks

Conclusion

13. Based on the foregoing, I have probable cause to believe, and I do believe, that “John DOE” committed a simple assault in violation of Title 18 U.S.C § 111. I therefore request that the Court issue a criminal complaint and arrest warrant charging DOE with that offense.

14. Prior to being submitted to the Court, this affidavit, the accompanying complaint, and the arrest warrant were all reviewed by Assistant United States Attorney (AUSA) Gary

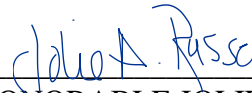
Sussman. AUSA Sussman advised me that in his opinion the affidavit and complaint are legally and factually sufficient to establish probable cause to support the issuance of the requested criminal complaint and arrest warrant.

(By telephone) _____

David MILLER
Senior Special Agent
Federal Protective Service

Sworn to by telephone or other reliable means in accordance with Fed. R. Crim. P. 4.1 at

3:03pm ~~AM/PM~~ on July 6, 2020.

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HONORABLE JOLIE RUSSO
United States Magistrate Judge